MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2016/2017

UIF2612 – ISLAMIC FAMILY LAW

(All Sections / Groups)

22nd OCTOBER 2016

Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time : 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages (excluding cover page) with 5 Questions only.

3. Attempt **FOUR** out of FIVE questions. All questions carry equal marks and the distribution of the marks for each question is given.

4. Students are allowed to bring into Examination Hall CLEAN and ORIGINAL copy of:

   i. Islamic Family Law (Federal Territories) Act 1984
   ii. Al- Quran (Translation)

   Students are not allowed to lend or borrow statute(s) during the Examination.

5. Please write all your answers in the Answer Booklet provided.

QUESTION 1

"O Prophet! When you do divorce women, divorce them at their prescribed periods and count (accurately) their prescribed periods: And fear Allah your Lord: and turn them not out of their houses, nor shall they (themselves) leave, except in case they are guilty of some open lewdness..."

Surah At- Talaq ((65):1)

Based on the Quranic verse above, it is understood that divorce is allowed in Islam though it is not encouraged. Discuss in detail the ways of dissolution of marriages in Islam with special reference to Al-Quran, Islamic Family Law (Federal Territory) Act 1984 and also decided cases.

(25 marks)

QUESTION 2

Upin and Ipin are very close cousins and they grow up together. One day, Upin brought Ipin to a birthday party where he introduced Ipin to his former schoolmate, Siti. Ipin fall in love with Siti and decided to ask her hand for marriage. Siti did not answer even though in her heart she has fall in love with Ipin too.

However, unknown to Upin and Ipin, their own cousin, Apan, has actually eyeing on Siti for a long time. He decided to ask his parents to propose Siti through a proper betrothal ceremony. On the date agreed by the parties, the betrothal took place as what they have planned and Siti's family accepted the proposal. In the agreement, they also decided on a specific date for the marriage to be held. The preparation for the marriage was carried out soon after the betrothal.

Anguished by the news, Ipin confronted Apan and alleged that he was the one who firstly proposed Siti. Without asking any further clarification from Siti, Apan who was emotionally affected as he thought that Siti was having an affair with Ipin, decided to call off the engagement.

a) Advise the parties above as to their rights in law, and the possible legal actions or remedies that they may have. Support your answer with relevant laws and cases.

(15 marks)

b) Would your answer be different if the case happened before the amendment of Article 121 (1A) of the Federal Constitution? Cite the relevant case/s where appropriate.

(10 marks)

(Total: 25 marks)

Continued...

QUESTION 3

Dato Hisham, a successful businessman who owned a construction company in Kuala Lumpur is married to a beautiful lady, Datin Hashimah. Nevertheless, eventhough they have already married for ten years, they are yet to be blessed with a child. Datin Hashimah had gone through the In-Vitro Fertilization (IVF) procedure to fulfil their wish in getting a child but failed. The doctor had confirmed that she is barren and unable to get pregnant.

Dato Hisham, being a wealthy man, putting a high hope to have children to continue his legacy in business and inherit his properties, At the same time, a new young executive, Hannah just came in to serve his company and Dato Hisham was attracted to her beauty and sincerity.

They began to have a serious relationship and later Dato Hisham made up his mind to marry Hannah. He therefore confronted his wife Datin Hashimah to tell her about his intention. Datin Hashimah however refused to give her consent to the marriage stating that the marriage would be unfair to her.

Based on the given situation, discuss:

a) The permissibility to contract a polygamous marriage by a Muslim man according to Hukum Syara'.

(6 marks)

(b) The possibility or chances for Dato Hisham to contract a polygamous marriage by taking into consideration the requirements under the Islamic Family Law (Federal Territories) Act 1984. Cite the relevant provisions and case/s where appropriate.

(14 marks)

(c) What would be the situation or consequence if Dato' Hisham contracted the marriage without permission and outside the Federal Territory?

(5 marks)

(Total: 25 marks)

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QUESTION 4

It is presumed that it is for the good of a child during his or her infancy to be with the mother, thus making the mother the best person to take care of the child. However, there are certain circumstances where a mother might be disqualified from the right of custody *(Hadhanah)* of her child.

Other than that, in deciding the right of custody, the court will take into account the welfare of the children as the paramount consideration in its decision.

Elaborate the above statement in detail by referring to relevant authorities including Hadith, provisions in the Islamic Family Law (Federal Territory) Act 1984 as well as the decided cases.

(25 marks)

QUESTION 5

Fazura, a very good and kind young lady married to Ehsan, a successful lawyer. At the beginning of their marriage, everything went well and they lived happily. Both of them are working and they bought a house for their family. However, after some times, they started to argue with each other almost everyday pertaining to their marital problems and some domestic disputes. Ehsan wanted Fazura to follow his western lifestyle whereas Fazura was brought up by her family in an Islamic and decent way of life.

One day, they had a big quarrel between them where Ehsan, who was drunk and unable to control his anger during that time said to Fazura "I had enough with you, go back to your parent's, I don't want to see your face anymore. I hereby divorce you with one talaq..!".

With a heavy heart, Fazura left the house to her parent's house in Bangsar .One day after the incident, Ehsan sent a whatsapp message to Fazura asking whether he had pronounced the talaq (as he was unsure) and if so, he swear that he never intended to the divorce. He also said that he was so regret and wanted to reunite with Fazura.

On the other hand, Fazura feels that she is not capable of holding the marriage anymore, mainly because of Ehsan's attitude who sometimes beats and abuses her to injury,

As a Shari'ie lawyer, prepare a legal opinion to address the issues in the case accordingly.

Note that Fazura has never remitted the *maskahwin* from Ehsan.

(25 marks)

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